

**Town of Sunset Beach
Special Meeting Minutes
August 5, 2013
3:00 pm**

Members Present: Mayor Richard Cerrato, Mayor Pro-Tem Lou DeVita, Councilman Wilson Sherrill, Councilwoman Karen Joseph, Councilman Mike Williams, and Councilwoman Carol Scott.

Members absent: None

Attorney & Staff Present: Attorney Mike Isenberg; Lisa Massey, Police Chief; Kevin Dempsey, Fire Chief; Richard Childres, Assistant Fire Chief; Dustin Graham, Public Works Director; Thomas Bertilino, Beach Patrol Supervisor; Sandy Wood, Building Inspections Department Director; Donna Rogers, Finance Director/Interim Town Administrator; Cindi Stephenson, Deputy Finance Director; and Lisa Anglin, Town Clerk.

Mayor Cerrato called the Special Meeting to order and advised that the purpose of this Special Meeting is to discuss Beach Safety and the recent drownings that occurred due to the rip currents.

The Council reached a consensus to hear from the Police and Fire Chiefs, Public Works Director, Finance Director/Interim Town Administrator, Town Attorney and citizens first and then to have a Council discussion.

Staff Information

Fire Chief Dempsey advised that fire personnel were on the scene within 2 ½ minutes of receiving the call and began performing their duties upon arrival. Both Chiefs agreed that the weather conditions observed on that day and several days prior created the perfect conditions for rip currents. Police Chief Massey advised that the last drowning event in Sunset Beach occurred 17 years ago and was due to the mental illness of the individual and not weather conditions.

Both Chiefs and Dustin Graham, Public Works Director advised that maneuverability of emergency vehicles and beach patrol ATV's, on the strand especially at high tide is impaired greatly due to number of tents, chairs, pedestrians, belongings, etc. which slows response time. Both Chiefs advised that a minimum of 22 lifeguard stands would be necessary to cover the entire beach strand. Mayor Cerrato suggested that lifeguards be stationed only in congested areas and a flag warning system be implemented.

Concerning implementing a flag warning system, Graham advised that it takes a minimum of 30 minutes to travel the length of the strand and additional time would be needed to raise, remove or change flags. An exact time limit can't be established due to differing circumstances that could be present when it was necessary for Staff to change the flags, including but not limited to, tide levels, winds, obstacles such as tents, chairs, strand population, etc.

Staff Information (Cont.)

Concerning liability exposure, Donna Rogers, Finance Director/Interim Town Administrator, advised that implementing either a flag warning system or hiring lifeguards for the strand automatically creates gross negligence for the Town by admitting to unknown danger that warrants protective measures and increases the liability premiums.

Concerning the legal perspective, Attorney Mike Isenberg advised that the law seems clear that a town which does nothing has little risk of liability while a town which provides lifeguards or implements a flag warning system assumes a duty to the public and thus assumes a risk of liability. Once a town assumes that duty, there are many ways for lawyers to argue that the Town was negligent in some manner. The presence of a lifeguard does not guarantee that drownings are not possible. A flag warning system also assumes a duty to ensure that the flags are located everywhere, that the correct flag is flying, and if the conditions change that the flags are changed in a timely fashion. Both the North Carolina League of Municipalities and Municipal defense attorneys recommend additional signage at all public accesses stating no lifeguards on duty, swim at your own risk, etc., which seems to now be the preferred practice all along the North Carolina coast. Attorney Isenberg reminded the Council that the land below the high water mark is actually owned by the State and therefore the Town has little authority or jurisdiction at this time.

Council Discussion

The Council discussed lobbying the North Carolina General Assembly for legislation that could assist the beach towns by enacting a Good Samaritan liability cap or limited liability so municipalities could assume the duty and implement protective measures for the citizens and visitors. The Council agreed to request the Brunswick Beaches Consortium to discuss this during their August 15, 2013 meeting.

Public Comments

Raymond DeWitt 7825 High Market Street – Advised Council of the type of signage in all Michigan State owned parks.

Carol Santavicca 9109 Forest Drive – Encouraged Council to explore all alternatives before making any decisions.

Bob Tone 9030 Sea Lane – Commended the police and fire department personnel for the job they did during the event and encouraged the Council to consider purchasing an emergency response equipped ATV for the departments to use when assisting people in need of medical treatment on the strand.

Richard Hilderman 407 37th Street – Encouraged the Council to explore additional signage and preventive educational materials to be included on the website and in the rental properties.

John Walz 622 Triangle Trail – Encouraged the Council to distribute educational information through the rental companies; install additional signage at both ends of the access walkways, and suggested that beach patrol warn beach goers of the dangers.

Brenda Mongold 7825 High Market Street – Advised Council that educational information needs to be distributed; advised that people need to be responsible for themselves and their children.

Judith Rodocker 872 Great Egret Circle 6B – Agreed that additional signage and educational information is needed; encouraged Council to consider implementing a flag warning system.

Public Comments (Cont.)

Elizabeth Friday 240 Magnolia Drive – Encouraged beach patrol to advise people where the rip currents are when they are centralized in one area for numerous days.

Steve Friday 240 Magnolia Drive – Advised that rip currents are easy to identify.

Randy Thompson 222 Rice Mill Circle – Agreed with the legislative approach that Council is discussing and suggested that the Council request the NOAA Warning Coordinator to attend a meeting.

Ron Watts Shoreline Drive West – Agreed that educational information is needed and agreed to include material in the rental company packets next year.

John Corbett 423 Sailfish Drive – Agreed that some form of system needs to be implemented to inform the citizens and visitors of dangerous conditions.

John Tice 613 Jasmine Lane – Advised that signs need to be brief and to the point because people will not read signs that are cluttered with a lot of words.

Len Steiner 613 Kings Trail – Reminded Council that mainland rentals also need to display and distribute educational information.

Council Discussion (Cont.)

The Council discussed purchasing additional signage to be placed at each end of the beach access walkways. Dustin Graham showed Council a proposed sign and advised that 70 signs are needed at a cost of approximately \$1,300. The Council directed that all signs currently displayed be evaluated to ensure that the wording is exact, to the point and informative, but still minimal enough to encourage citizens and visitors to stop and read them. The Council discussed kiosk informational signs such as the bird island ones in the gazebo parking lot to entice citizens and visitors to read them. The Council briefly discussed cabanas, tents and other items that are impeding the access of emergency responders and reached a consensus to add this item to the September Work Session agenda. The Council agreed to supply all Town merchants with rip current pamphlets and plastic display holders for their businesses.

COUNCILWOMAN JOSEPH MADE A MOTION TO AUTHORIZE DUSTIN GRAHAM TO ORDER 70 RIP CURRENT WARNING SIGNS. COUNCILWOMAN SCOTT SECONDED THE MOTION. MAYOR CERRATO CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

COUNCILMAN SHERRILL MADE A MOTION TO ADJOURN THE AUGUST 5, 2013 SPECIAL MEETING. COUNCILMAN WILLIAMS SECONDED THE MOTION. MAYOR CERRATO CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

Town of Sunset Beach

Richard Cerrato, Mayor

Submitted by:

Lisa Anglin, Town Clerk